

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
)

SSM Health –St. Mary’s Hospital )

WC Docket No. 02-60

Received & Inspected

Request for Review of Decisions of the )  
Universal Service Administrative Company )

AUG 04 2017

To: Wireline Competition Bureau

DOCKET FILE COPY ORIGINAL

FCC Mallroom

REQUEST FOR REVIEW AND RULE WAIVER

Pursuant to §§ 54.719(c) and 54.720(a) of the Commission’s Rules (“Rules”), SSM Health –St. Mary’s Hospital (“SSM – St. Mary’s ”) hereby requests that the Commission review and reverse the decision of the Universal Service Administrative Company (“USAC”) below, waive § 54.605 of the Rules, and grant funding to SSM – St. Mary’s as specified herein. In support thereof, the following is respectfully submitted:

FACTS

Located in St. Louis, Missouri, SSM – St. Mary’s Medical Center is Catholic, not-for-profit health care system. SSM – St. Mary’s offers a range of services including emergency care, cardiology services, medical imaging, men’s health services, women and child services, and diabetes education throughout Missouri. It has been in operation for over 50 years.

In 2012, SSM – St. Mary’s engaged a consulting firm, USF Healthcare Consulting, Inc. (“UHC”), to assist it in obtaining Universal Service support through the Telecommunications Program (“Telecom Program”) for rural health care providers (“HCPs”). SSM – St. Mary’s authorized UHC to prepare the FCC Forms 465 (“Form 465”) and the FCC Forms 466 (“Form

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466”) necessary to obtain Telecom Program funding and to submit them electronically to USAC’s Rural Health Care Division (“RHCD”).

UHC helped SSM – St. Mary’s obtain funding for switched Ethernet services at the rural clinics to connect back to their corporate facilities.

As the Commission is aware, participants in the Telecom Program have found it difficult to determine urban rates as required by § 54.605 of the Rules.<sup>1</sup> As set forth in the Declaration of Geoff W. Boggs, UHC’s Chief Executive Officer, UHC found it difficult to obtain tariffed or publicly available rates for high-speed Ethernet packet-based services that are offered in urban areas (cities with populations of 50,000 or more).<sup>2</sup> Consequently, UHC followed the practice of obtaining urban rates from urban service providers.<sup>3</sup> To document the urban rate, UHC asked the provider to supply a letter on its letterhead that states the rate that is charged in an urban area in the state.<sup>4</sup>

Table 1

Fund Year	HCP Number	HCP Name	FRN
2016	48034	SSM Health Medical Group - Family Medicine	1691329
2016	48036	SSM Health Med Group - Lake Ozark MO	1691318
2016	48037	SSM Health Med Group-Family Medicine Tipton MO	1691312
2016	48038	SSM Health Med Group-Family Medicine Tipton MO	1691323

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<sup>1</sup> See, e.g., Comments of Alaska Communications, GN Docket No. 16-46, at 12-13 (May 24, 2017) (“Alaska Communications Comments”).

<sup>2</sup> See Exhibit 1 at 2 (¶ 7).

<sup>3</sup> See *id.* (¶ 8).

<sup>4</sup> See *id.*

In the case of SSM-St. Mary's, UHC relied on a letter, dated September 26, 2016 from Scott Madison, the managing member of Network Services Solutions ("NSS"). Mr. Madison represented that "[t]he urban rate for a 100 Meg Ethernet point-to point connection in St. Louis, Mo. is \$195.00 per channel termination. This rate is based upon a 36-month contract."<sup>5</sup> UHC prepared and submitted Form 466 for SSM – St. Mary's for each HCP in Table 1 above that gave \$195.00 (\$195 per termination end) as the urban rate for 100 Mbps Ethernet service.<sup>6</sup>

On March 29, 2017, the RHCD requested that SSM-St. Mary's explain how it derived the \$195.00 urban rate to provide urban rate documentation.<sup>7</sup> In response, UHC provided RHCD with documents showing that BellSouth Telecommunications, LLC offered to provide switched Ethernet service, up to 1 GIG, throughout Missouri at monthly charge of \$195.00 under a three-year contract.<sup>8</sup> Thereafter, UHC repeatedly asked if the RHCD needed additional information or if it could speak with the RHCD staffer who was reviewing the \$195.00 urban rate.<sup>9</sup> UHC expected that it would be contacted if the RHCD had any questions with regard to the urban rate, and that it would be afforded the opportunity to address any such questions before the RHCD would render its funding decisions.<sup>10</sup> However, UHC was given no such opportunity.<sup>11</sup>

On June 2, 2017, the RHCD notified SSM – St. Mary's that USAC was "unable to provide

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<sup>5</sup> *Id.* (¶ 9).

<sup>6</sup> *See id.* at 6 (¶ 6), 2 (Table 2).

<sup>7</sup> *See id.* at 3 (¶¶ 11, 12).

<sup>8</sup> *See id.* (¶ 13).

<sup>9</sup> *See id.* at 4-5 (¶¶ 14, 15, 17-19).

<sup>10</sup> *See id.* at 5 (¶ 21).

<sup>11</sup> *See id.*

support” to SSM-St. Mary’s, specifically because it had not “demonstrated that the urban rate provided for the requested service is ‘no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a *functionally similar* service’ in any city with a population of 50,000 or more in that state.”<sup>12</sup> The RHCD did not explain why SSM-St. Mary’s submissions were insufficient or why it did not grant SSM-St. Mary’s requests for the opportunity to address the urban rate issue.

Losing these funds places an undue financial burden on SSM – St. Mary’s as a not for profit organization in providing needed health care service in the rural communities we serve. Many of our patients in these communities do not have the resources to travel 30 miles or better to receive basic health care in these underserved areas and subsequently do without. Our clinics in these locations rely on the appropriately planned capacity of the existing Ethernet circuits for electronic health record and radiology image transmission to document and provide diagnostic treatment. Our current strategic plan is to expand patient access to specialty services in these communities through telemedicine technologies that rely on high bandwidth Ethernet access. While we are willing to invest in these technologies, we believe should also have some financial support to alleviate some of the burden for the betterment of the communities being served.

#### WAIVER STANDARD

SSM – St. Mary’s seeks a waiver of § 54.603 of the Rules to permit it to receive the appropriate level of USF support for the Funding Year 2016. The Commission has the discretion to grant the requested waiver under § 1.3 of the Rules, which provides:

The provisions of this chapter may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act [“APA”] and the provisions of

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<sup>12</sup> *Id.* (¶ 22).

this chapter. Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.<sup>13</sup>

Generally speaking, the Commission may exercise its discretion under the APA and § 1.3 of the Rules to suspend or waive a Rule for good cause “only if special circumstances warrant a deviation from the general and such deviation will serve the public interest.” *Northeast Cellular Telephone Co., L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). Of course, the Commission must grant waivers pursuant to an “appropriate general standard.” *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969). The Wireline Competition Bureau (“WTB”) recently set forth the general standard that is applied to requests for waivers of §§ 54.600 – 54.625 of the Rules, which govern the Telecom Program:

The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. Waiver of the Commission's rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest.<sup>14</sup>

### ARGUMENT

In the words of one participant in the Telecom Program, the rules governing the program (“Telecom Rules”) “written two decades ago for a world of tariffed low-bandwidth, circuit-switched services are increasingly unworkable.”<sup>15</sup> In 2012, the Commission promised to address potential reforms to the Telecom Program “at a future date.”<sup>16</sup> In the meantime, it has allowed its

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<sup>13</sup> 47 C.F.R. § 1.3.

<sup>14</sup> *Rural Health Care Universal Service Support Mechanism*, 2017 WL 735668, at \*2 (WTB Feb. 10, 2017). (footnotes omitted) (“NSS Waiver Decision”).

<sup>15</sup> Alaska Communications Comments at 12.

<sup>16</sup> *Rural Health Care Support Mechanism*, 27 FCC Rcd 16678, 16751 n.433 (2012)

woefully outdated Telecom Rules to remain in effect.<sup>17</sup> Section 54.605 of the Telecom Rules is one such rule.

Adopted in 1997, § 54.605 of the Telecom Rules has remained virtually unchanged.<sup>18</sup> The rule provides that the “urban rate” that an HCP should pay is “a rate no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a functionally similar service in any city with a population of 50,000 or more in that state, calculated as if it were provided between two points within the city.” Although “[d]etermining the urban rate” is the heading of § 54.605, the rule does address exactly how an HCP should go about determining the “highest tariffed or publicly-available rate charged” for a similar service in an urban area.

The Commission assumed in 1997 that such the urban rate would be “tariffed or publicly available” and thus readily accessible. That assumption may have been well founded in 1997, but not so today. Now, HCPs use high-bandwidth services, like video and teleconferencing, which are provided by lightly-regulated competitive carriers over high-speed Ethernet packet-based networks. Those services are provided at competitive, market-driven rates, which often are neither tariffed nor publicly-available.<sup>19</sup> USAC was undoubtedly aware that HCPs were experiencing difficulty in ascertaining the urban rates for broadband Ethernet-based services.

The difficulties UHC experienced in obtaining urban rates for Ethernet services led it to obtain the urban rates for such services from urban service providers.<sup>20</sup> UHC’s practice would be to obtain a letter on a service provider’s letterhead that would state the rate that is charged in an

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<sup>17</sup> See *id.* at 16815 (¶ 344).

<sup>18</sup> Compare *Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, 9348-49 (1997) with 47 C.F.R. § 54.605 (2017).

<sup>19</sup> See Exhibit 1 at 2 (¶ 7).

<sup>20</sup> See *id.* at 2 (¶ 8).

urban area in the state for an Ethernet service similar to that required by the HCP. UHC would provide USAC with a copy of the service provider's letter to document the urban rate. The provision of such a letter is an approved means of documenting an urban rate.<sup>21</sup>

In this case, UHC obtained a letter on NSS's letterhead that represented that the urban rate for 100 Meg Ethernet service in St. Louis, Mo. was \$195.00 per channel termination. The Commission subsequently found that NSS's determinations of urban rates apparently were not calculated in the manner required by § 54.605 of the Telecom Rules.<sup>22</sup> Accordingly, when the RHCD questioned the validity of the urban rate that NSS supplied to SSM-St. Mary's, UHC was forced to obtain documentation from another urban service provider to confirm that NSS had correctly determined that \$195.00 was the urban rate for 100 Mbps Ethernet service in Missouri.<sup>23</sup> UHC obtained such documentation and submitted it to the RHCD in timely fashion.<sup>24</sup>

During the 65-day period between March 29, 2017, when SSM-ST. Marys' responded to the RHCD's inquiry, and June 2, 2017, when the RHCD rendered its funding decision, the RHCD did not: (1) advise UHC that its submission did not demonstrate its urban rate was no higher than the highest rate charged in St. Louis for 100 Meg Ethernet service; (2) respond to UHC's repeated requests for feedback; or (3) give UHC an opportunity to correct SSM-St. Mary's response by specifying that the urban rate for the 100 Meg Ethernet service should be \$648.44 (\$214.50 + \$433.94) and \$464.50 (\$214.50 + \$255.00) for the 10 Meg Ethernet service. The RHCD simply

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<sup>21</sup> See Form 466 Instructions, at 8 (July 2014) (urban rate documentation "may include tariff pages, contracts, a letter on company letterhead from the urban service provider, rate pricing information printed from the urban service provider's website, or similar documentation").

<sup>22</sup> See *Network Services Solutions, LLC*, 31 FCC Rcd 12238, 12275 (¶ 107) (2016).

<sup>23</sup> See Exhibit 1 at 3-4 (¶ 13).

<sup>24</sup> See *id.*

and inexplicably denied funding to SSM-St. Mary's.

Under the special circumstances of this case, the strict enforcement of § 54.605 would be inequitable, inconsistent with the policies embodied in § 254(h)(1)(A) of the Act, and ultimately inconsistent with the public interest. With respect to the equities, the Commission should note the following facts.

- It is difficult for HCPs to determine the urban rates for Ethernet services in accordance with the outdated requirements of § 54.605.
- SSM – St. Mary's complied with the Commission's requirement that it submit "missing or relevant support documentation" within 14 days of the RHCD's request for information.<sup>25</sup>
- UHC relied on NSS's \$195.00 urban rate in good faith, and that reliance led it to incorrectly identify AT&T's Ethernet basic port charge of \$195.00 as the urban rate in its initial response to the RHCD's inquiry.<sup>26</sup>
- UHC reasonably expected that the RHCD would give it the opportunity to correct any errors in its initial submission.<sup>27</sup>
- The RHCD ignored UHC's repeated requests to be informed of any problem with its proposed urban rate, and to be given the opportunity to address any such problem.
- UHC could have corrected its error in timely fashion had the RHCD clearly informed UHC that the urban rate had to include one of AT&T's "committed information rates" ("CIRs") as well as its basic port charge.<sup>28</sup>

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<sup>25</sup> *Rural Health Care Support Mechanism*, 30 FCC Rcd 230, 231 (¶ 3) (WCB 2015).

<sup>26</sup> See Exhibit 1 at 3-4 (¶ 13), Attachment 1.

<sup>27</sup> See *id.* at 5 (¶ 21).

<sup>28</sup> See *id.* at 5-6 (¶¶ 23, 24), Attachment 3.



- Once it learned that the urban rate should include AT&T's port charge and a CIR, UHC proposed the correct urban rate for a 10 Meg to be \$464.50 (\$214.50+\$255.00) and a 100 Meg Ethernet \$648.44 (\$214.50 + \$433.94).<sup>29</sup>

SSM – St. Mary's respectfully submits that RHCD abused its discretion when it refused to allow UHC to correct its mistaken reliance on NSS. The RHCD's refusal to grant equitable relief to SSM – St. Mary's makes it inequitable for the Commission to strictly enforce § 54.605 in this case. The Commission should grant SSM – St. Mary's a limited waiver of § 54.605 to permit it to receive funding for the Fiscal Year 2016. Such action would be consistent with the relief that the Commission has afforded other HCPs whose reliance on NSS led USAC to deny their funding requests. *See NSS Waiver Decision*, 2017 WL 735668, at \*2-3 (¶¶ 6-8).

Grant of the requested waiver would comport with the policy that Congress codified when it authorized the Commission to establish the Telecom Program. Congress instructed the Commission to base policies for the preservation and advancement of universal service in part on the principle that HCPs "should have access to advance telecommunications services as described in [§ 254(h) of the Act]."<sup>30</sup> Section 254(h)(1)(A) of the Act provides:

A telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health care services in a State, including instruction relating to such services, to any public or nonprofit [HCP] that serves persons who reside in rural areas in that State at rates that are reasonably comparable to rates charged for similar services in urban areas in that State. A telecommunications carrier providing service under this paragraph shall be entitled to have an amount equal to the difference, if any, between the rates for services provided to [HCPs] for rural areas in a State and the rates for similar services provided to other customers in comparable rural areas in that State treated as a service obligation as a part of its obligation to participate in the mechanisms to preserve and advance universal service.<sup>31</sup>

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<sup>29</sup> *See id.* at 5-6 (¶ 23), Attachment 3.

<sup>30</sup> 47 U.S.C. § 254(b)(6).

<sup>31</sup> 47 U.S.C. § 254(h)(1)(A).

Congress codified the policy that HCPs be afforded access to advanced telecommunications services, such as Ethernet-based broadband services, at rates that are reasonably comparable to urban rates for similar services. That Congressional policy must outweigh the interests of “efficiency and effectiveness” that are served by the 14-day deadline for submitting urban rate documentation to the RHCD.<sup>32</sup> And that policy would clearly be served if the Commission permits SSM – St. Mary’s to submit a Form 466 that will allow it to receive Ethernet services at rates that are in fact reasonably comparable to the rates charged by AT&T for similar Ethernet services in cities in Missouri. The Commission should reverse the RHCD and grant the rule waiver that is necessary to allow SSM – St. Mary’s to submit such a Form 466 to the RHCD *nunc pro tunc* as of March 29, 2017.

#### REQUEST FOR RELIEF

Attached hereto as Exhibit 2 are four Form 466’s for SSM-St. Mary’s. Provided in the table 1 below is both the rural and urban rate information for the 466’s referenced in this request for relief. SSM – St. Mary’s respectfully requests that the Commission; (1) waive § 54.605 of the Telecom Rules to the limited extent of allowing SSM-St. Mary’s to submit the Form 466 that is attached as Exhibit 2 to USAC; and (2) direct USAC to process the Form 466 as if it had been submitted on March 29, 2017 in response to the RHCD’s request for information.

HCP	FRN	Service	Bandwidth	Rural Rate	Urban Rate
48034	1691329	Ethernet	10 Meg	\$675.00	\$464.50
48036	1691318	Ethernet	100 Meg	\$2050.00	\$648.44
48037	1691312	Ethernet	10 Meg	\$815.00	\$464.50

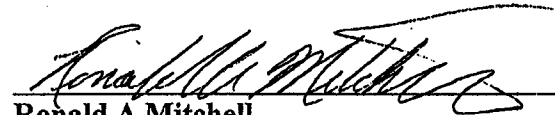
<sup>32</sup> *Rural Health Care Support Mechanism*, 30 FCC Rcd at 231 (¶ 3).

48038	1691323	Ethernet	10 Meg	\$802.28	\$464.50
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Respectfully submitted,

SSM Health –St. Mary’s Hospital

By:



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**2505 Mission Dirve,**  
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07/25/2017

## **EXHIBIT 1**

## DECLARATION

I, Geoff W. Boggs, do hereby declare as follows:

1. I am the Chief Executive Officer of USF Healthcare Consulting, Inc. ("UHC").
2. USF Healthcare Consulting, Inc. is a Kentucky based corporation that assists nonprofit Healthcare Facility with their Universal Service Fund ("USF") applications.
3. SSM Health Medical Group –St. Mary's Hospital ("SSM St. Mary's") is a not-for-profit health care system that also owns and operates several rural clinics throughout Missouri.
4. UHC was retained to assist SSM-St. Mary's in obtaining USF support through the Telecommunications Program ("Telecom Program") for rural health care providers ("HCPs"). SSM-St. Mary's authorized UHC to prepare the FCC Forms 465 ("Form 465s") and the FCC Forms 466 ("Form 466s") necessary to obtain Telecom Program funding and to submit them electronically to the Rural Health Care Division ("RHCD") of the Universal Service Administrative Company ("USAC").
5. I am preparing this declaration to support the appeal and request for waiver that SSM-St. Mary's plans to file with respect to the RHCD's decisions not to approve the funding request number ("FRN") identified in Table 1 below:

TABLE 1

Fund Year	HCP Number	HCP Name	FRN
2016	48034	SSM Health Medical Group – Family Medicine Belle, Missouri	1691329
2016	48036	SSM Health Medical Group Clinic Lake Ozark, Missouri	1691318
2016	48037	SSM Health Medical Group Family Medicine – Tipton, Missouri	1691312
2016	48038	SSM Health Medical Group Family Medicine-Versailles, Mo	1691323

6. UHC prepared and submitted the Form 465s and Form 466s associated with the FRNs identified above. I was listed as the contact person at Line 16 of the Form 465s and I electronically signed and certified the Form 466s. The four Form 466's that were submitted electronically to USAC on October 13, 2016 included the information set forth in Table 2.

TABLE 2

HCP	FRN	Service	Bandwidth	Rural Rate	Urban Rate
SSM Health Medical Group – Family Medicine Belle, Missouri	1691329	Ethernet	10M	*\$675.00	\$195.00
SSM Health Medical Group Clinic Lake Ozark, Missouri	1691318	Ethernet	100M	*\$2050.00	\$195.00
SSM Health Medical Group Family Medicine – Tipton, Missouri	1691312	Ethernet	10M	*\$815.00	195.00
SSM Health Medical Group Family Medicine- Versailles, Mo	1691323	Ethernet	10M	*\$802.28	\$195.00

7. UHC found it difficult to obtain tariffed or publicly available rates for high-speed Ethernet packet-based services that are offered in urban areas (cities with populations of 50,000 or more). Typically, such services are provided by lightly-regulated competitive carriers that neither publish tariffs nor make their urban rates available to the public.

8. Because of the difficulty of obtaining publicly-available urban rates for Ethernet services, UHC followed the practice of obtaining urban rates from urban service providers. To document the urban rate, UHC asked the provider to supply a letter on its letterhead that states the rate that is charged in an urban area in the state for an Ethernet service similar to that required by

the HCP.

9. To provide the urban rate documentation required by Line 41 of the 466 forms, SSM-St. Mary's submitted a letter, dated September 26, 2016, from Scott Madison, the managing member of Network Services Solutions ("NSS"). Mr. Madison represented that "[t]he urban rate for a 100M Ethernet connection in St Louis, Mo. is \$195.00 per channel termination. This rate is based upon a 36-month contract." I understood that NSS provided service to HCPs in the Telecom Program, and I was led to believe that I could rely on the urban rates that NSS supplied.

10. As far as I am aware, there is no Commission rule that informs an HCP of how it must submit a Form 466 electronically to USAC, or how the HCP must document the urban rate that is provided in a Form 466. Moreover, I do not know of a Commission rule that affords an HCP no more than 14 calendar days to respond to a USAC request for omitted or adequate documentation of the urban rate. I was led to believe that an HCP was free to supplement its initial response to a USAC request for urban rate documentation.

11. On March 27, 2017, the RHCD sent emails to SSM-St. Mary's and UHC, it referred to an attachment that posed questions with regard to the HCP's the above-identified FRN. The email stated, "Please submit your responses to these inquiries by no later than fourteen (14) calendar days from the date of this letter. Failure to provide the requested information within this time frame will result in denial of the funding requests." In contrast, the attachment concluded:

Please submit your responses to the above requests by no later than **fourteen (14) calendar days** from the date of this letter. Failure to respond to USAC's information requests in a timely manner and/or provide the requested documentation demonstrating compliance with the Commission's rules may result in denial of the funding request, a commitment adjustment, rejection of an invoice, and/or recovery of improperly disbursed funds. The responses you provide may also result in a follow-up information requests by USAC as necessary.

12. SSM-St. Mary's was requested to provide: (a) an explanation of "how the urban of

\$195.00 was derived;" (b) "documentation to support the urban rate provided, including, but not limited to, documentation that supports that the urban rate for the requested service is 'no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a functionally similar service' in any city with a population of 50,000 or more in that state;" and (c) an "explanation how the HCP's request for 100 Mbps Ethernet service is 'functionally similar' to the services(s) used for purposes of this comparison."

13. Attachment 1 to this declaration is a copy of the email that I sent to the RHCD on March 29, 2017, which was in response the RCHD's information request. In my email, I stated as follows:

I have attached the AT&T tariff which is for up to a 1 GIG for \$195. That will cover the 10 Meg and the 100 Meg.

HCP 48034 FRN 1691329

HCP 48036 FRN 1691318

HCP 48037 FRN 1691312

HCP 48038 FRN 1691323

To document the \$195.00 urban rate, I provided the RHCD with a two-page rate card that showed AT&T's rates for its switched Ethernet services effective May 1, 2016, and an excerpt from the "AT&T Switched Ethernet Service Guide," which described the service. Those documents showed that BellSouth Telecommunications, LLC offered to provide 1 Gig Mbps switched Ethernet service throughout Missouri at monthly charge of \$195.00 under a three-year contract.

14. In my March 29, 2017 email, I asked the RHCD to confirm that it received my email. I also requested that the RHCD "let me know if we are missing anything."



15. Concerned that USAC had not approved the Forms 466s that UHC had filed that relied on the \$195.00 urban rate, I sent an email to Erica Stauter at USAC on April 14, 2017 in which I stated:

I wanted to ask about the Ethernet applications we filed and then resubmitted urban rates. We have not received any approvals on these and I wanted to make sure that you did not need anything else from us. Jeremy [Matkovich] told us our urban rates were fine, so I am just checking.

Some of our HCP [clients] are clamoring about their credits and I want to give them an answer.

16. On April 14, 2017, Blythe Albert responded to my email to Ms. Stauter. She sent me an email informing me as follows:

There seems to be some miscommunication about the forms below. These forms are being reviewed using the documentation provided. Until the reviews of all of these forms has been completed no commitments will be issued. During the review process, additional questions may be asked to verify the information provided. The attached email is the correspondence between you and Jeremy. He did not explicitly say that the urban rates were fine. The first sentence says, "If the monthly recurring cost for services(s) that the HCP is requesting only for the transport and does not include any service charges(s)....." We will reach out with more questions if necessary. Thanks.

17. I immediately sent Ms. Albert an email in which I asked her: "If they are not accepted, will you tell us before denying? We want to make sure we are providing the right urban rates." Ms. Albert did not answer my question.

18. Beginning on May 11, 2017, I began providing Ms. Albert with copies AT&T pricing schedules showing that AT&T offered 1 Gig Mbps switched Ethernet service to HCPs at rates comparable to the \$195 urban rate specified in the Form 466s that the SSM-St. Mary's HCPs submitted. I sent her rate schedules showing that AT&T had agreed to provide 1 Gig Mbps switched Ethernet services to an HCP in Hondo, Texas at a monthly rate of \$214.50, and to an HCP in Independence, Kansas at a monthly rate of \$235.95. These rates were good throughout all AT&T territories including Missouri. I offered to discuss the rate schedules with Ms. Albert, and

I asked her if I could speak with the person who was reviewing the 195.00 urban rate.

19. Attachment 2 is a copy of the email that I sent USAC on behalf of SSM-St. Mary's on June 1, 2017. In my email, I stated:

I understand the \$195 urban rate is still under review. Since these FRNs have not been approved ... I am submitting a new urban rate, similar to the \$195, to be used if the \$195 is not accepted. I have attached the urban rate. This is to be used for the following [HCPs] and [FRNs].

HCP 17380 FRN 1689315 and 1689314

Please call me if you have any questions.

20. Attached to my email was a copy of a document showing that an AT&T customer had accepted the rates, terms and conditions of an AT&T switched Ethernet service pricing schedule. I circled the terms of the pricing schedule indicating that the urban rate for the Ethernet circuits should be \$214.50.

21. I fully expected that the RHCD would contact me if it had any questions with regard to the \$195 or the \$214.50 urban rate, and UHC would be afforded the opportunity to address any such questions before the RHCD would render its funding decisions. UHC was given no such opportunity. I asked Blythe Albert multiple times to talk to the reviewer and received no replies.

22. On June 2, 2017, I was notified that USAC was "unable to provide support" to SSM-St. Mary's, specifically because it had not "demonstrated that the urban rate provided for the requested is 'no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a *functionally similar* service' in any city with a population of 50,000 or more in that state."

23. I subsequently learned that the urban rate should have included AT&T's "Basic Port" charge and its "Committed Information Rate" or "CIR." Accordingly, I went back to the AT&T pricing schedule that I sent Ms. Albert on May 15, 2017, and I circled the \$214.50 port

charge and the appropriate CIR. I then wrote the information set forth in Table 3 on page 4 of the pricing schedule.

TABLE 3

BANDWIDTH	PORT CHARGE	CIR	TOTAL
5 Mbps	\$214.50	\$158.85	\$373.35
10 Mbps	\$214.50	\$255.00	\$464.50
20 Mbps	\$214.50	\$321.30	\$535.80
50 Mbps	\$214.50	\$371.25	\$585.75
100 Mbps	\$214.50	\$433.94	\$648.44

Not written, but circled was the rate for a Gig of  $\$214.50 + \$1,040.07 = \$1,254.57$

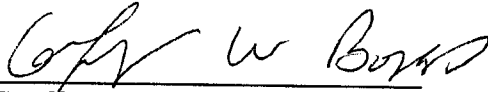
24. Attachment 3 consists of the emails that I sent the RHCD and Ms. Albert on June 12, 2017, and the AT&T pricing schedule that was an attachment to the first of my two emails. I requested feedback on whether the AT&T pricing schedule could be used to document urban rates that would be comprised of its basic port rate and a CIR. Thus, I proposed to use Ethernet urban rates set forth in Table 3 for Funding Year 2017. I inquired whether UHC would be given the opportunity to fix any problems that USAC would have with regard to the proposed urban rates. I also asked for a prompt response to my question so that UHC could complete applications for funding prior to the upcoming deadline.

25. Ms. Albert called me on June 13, 2017 and left the following message:

Hey Geoff, it's Blythe calling from USAC. My direct line is 202-772-5248. About that urban rate document, we've kind of can't talk about them outside of the review but it looks like it has a pretty decent information and a reviewer will definitely reach out to you. I would suggest just submitting your application using that urban rate document if that makes sense and they, the reviewer, will reach out to you and we'll see what comes of that, ok. Anyway, you can call me back but that's pretty much, you know, the best answer I can give you, we don't typically review documents outside of the review. But it, for all intents and purposes, looks like it has decent information to me, I'm not sure what the reviewer will come up with but they will definitely, no question, reach out to you. Ok? Thanks. Bye.

26. We believe if RHCD had reached out in a call to communicate their questions they would have approved this application.

27. I declare under penalty of perjury that the foregoing is true and correct. Executed on July 27, 2017.

  
\_\_\_\_\_  
Geoff W. Boggs

# **ATTACHMENT 1**

## Geoff Boggs

---

**From:** Geoff Boggs  
**Sent:** Wednesday, March 29, 2017 12:28 PM  
**To:** 'RHC-Assist'  
**Subject:** RE: Request for Information for HCP#(s) 48034, 48036, 48037 and 48038 for FY 2016  
**Attachments:** AT&T Ethernet @ \$195.00.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

I have attached the AT&T tariff which is for up to a 1 GIG for \$195. That will cover these 10 Meg and the 100 Meg.

HCP 48034 FRN 1691329  
HCP 48036 FRN 1691318  
HCP 48037 FRN 1691312  
HCP 48038 FRN 1691323

Please confirm receipt and let me know if we are missing anything.

Thanks

Geoff Boggs  
USF Healthcare Consulting, Inc.  
P. O. Box 326  
Prospect, KY 40059  
502-228-1907  
888-875-8810 Fax  
gboggs@uasave.com

**From:** RHC-Assist [mailto:rhc-assist@usac.org]  
**Sent:** Monday, March 27, 2017 3:15 PM  
**To:** ronald\_mitchell@ssmhc.com  
**Cc:** gboggs@uasave.com  
**Subject:** Request for Information for HCP#(s) 48034, 48036, 48037 and 48038 for FY 2016

Ron Mitchell,

Please see attached document for additional information regarding HCP number(s) 48034, 48036, 48037 and 48038 for FY 2016.

Please submit your responses to these inquiries by no later than fourteen (14) calendar days from the date of this letter. Failure to provide the requested information within this time frame will result in denial of the funding requests.

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The information contained in this electronic communication and any attachments and links to websites are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, or the person responsible for delivering this communication to the intended recipient, be advised you have received this communication in error and that any use, dissemination,

## **ATTACHMENT 2**

## Geoff Boggs

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**From:** Geoff Boggs  
**Sent:** Thursday, June 01, 2017 11:02 AM  
**To:** 'RHC-Assist'; 'Nikoletta Theodoropoulos'; 'Blythe Albert'  
**Subject:** HCP 48034 - 216 Applications  
**Attachments:** AT&T Ethernet contract \$214.00 Multi state.pdf

I understand the \$195 urban rate is still under review. Since these FRN's have not been approved and I am submitting a new urban rate, similar to the \$195, to be used if the \$195 is not accepted. I have attached the urban here. This is to be used for the following HCP's and FRN's.

HCP 48034 FRN 1691329  
HCP 48036 FRN 1691318  
HCP 48037 FRN 1691312  
HCP 48038 FRN 1691323

Please call me if you have any questions.

Geoff Boggs  
USF Healthcare Consulting, Inc.  
P. O. Box 326  
Prospect, KY 40059  
502-228-1907  
888-875-8810 Fax  
[gboggs@uasave.com](mailto:gboggs@uasave.com)



## **ATTACHMENT 3**

## Geoff Boggs

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**From:** Geoff Boggs  
**Sent:** Thursday, June 01, 2017 12:01 PM  
**To:** 'RHC-Assist'; 'Nikoletta Theodoropoulos'; 'Blythe Albert'  
**Subject:** HCP 13345 2016 Applications  
**Attachments:** TX \$323 10-100M Ethernet MTM - 60 months 2016.pdf

I understand the \$195 urban rate is still under review. Since these FRN's have not been approved and I am submitting a new urban rate, from Suddenlink, to be used if the \$195 is not accepted. I have attached the urban here. This is to be used for the following HCP's and FRN's.

HCP 13345 FRN 1688883 and 168884

Please call me if you have any questions.

Geoff Boggs  
USF Healthcare Consulting, Inc.  
P. O. Box 326  
Prospect, KY 40059  
502-228-1907  
888-875-8810 Fax  
[gboggs@uasave.com](mailto:gboggs@uasave.com)

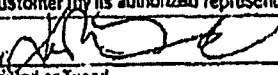


Contract Id: 4870831

AT&T MA Reference No. 138180UA  
AT&T Contract ID No. SDN50MJUPR

**AT&T SWITCHED ETHERNET SERVICE™ (with NETWORK ON DEMAND)**  
Pricing Schedule Provided Pursuant to Custom Terms

By signing this Pricing Schedule, Customer accepts all rates, terms and conditions herein, as presented to Customer by AT&T.

Customer (by its authorized representative)	
By:	
Printed or Typed Name:	KEVIN FROSCH
Title:	CFO
Date:	8/25/2016

For AT&T internal use only:	Contract Ordering and Billing Number (CNUM).
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pcs\_processed, cs\_approved

AT&T and Customer Confidential Information  
Page 2 of 6

ASE, NoD, ps, IEC, etool\_customer  
v09-17-15 1

WK# - Interstate-InterLATA - TBD	For AT&T Administrative Use Only Pricing Schedule No. _____ Original Effective Date: _____
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**AT&T Switched Ethernet Service<sup>SM</sup> (with Network On Demand) Pricing Schedule Provided Pursuant to Custom Terms**

**1. SERVICE, SERVICE PROVIDER(S) and SERVICE PUBLICATION(S)**

**1.1 AT&T Switched Ethernet Service<sup>SM</sup>**

*Service Areas*

Service	Service Publication (Incorporated by reference)	Service Publication location
AT&T Switched Ethernet Service <sup>SM</sup>	AT&T Switched Ethernet Service Guide	<a href="http://cpr.att.com/pdf/commonEthServGuide.html">http://cpr.att.com/pdf/commonEthServGuide.html</a>

Service Providers			
AT&T Alabama	AT&T Indiana	AT&T Missouri	AT&T Tennessee
AT&T Arkansas	AT&T Kansas	AT&T Nevada	AT&T Texas
AT&T California	AT&T Kentucky	AT&T North Carolina	AT&T Wisconsin
AT&T Florida	AT&T Louisiana	AT&T Ohio	BellSouth Telecommunications, LLC d/b/a AT&T Southeast
AT&T Georgia	AT&T Michigan	AT&T Oklahoma	
AT&T Illinois	AT&T Mississippi	AT&T South Carolina	

**1.2 Inside Wiring**

Service	AT&T Inside Wiring
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Service Provider	Service Publication	Service Publication Location
Same as the AT&T Service Provider for the AT&T Switched Ethernet Service	AT&T Inside Wiring Service Attachment	<a href="http://cpr.att.com/pdf/service_publications/ASE_SDN_Inside_Wiring_Attachment.pdf">http://cpr.att.com/pdf/service_publications/ASE_SDN_Inside_Wiring_Attachment.pdf</a>

**2. PRICING SCHEDULE TERM, EFFECTIVE DATES**

*Term*

Pricing Schedule Term	36 months
Pricing following the end of Pricing Schedule Term	Non-stabilized prices as modified from time to time in applicable Service Publication or, if there is no such pricing, the pricing in this Pricing Schedule

**3. MINIMUM PAYMENT PERIOD**

Service Components	Percentage of Monthly Recurring Charge Applied for Calculation of Early Termination Charges*	Minimum Payment Period per Service Component
All Service Components	50% plus any unpaid or waived non-recurring charges	Until end of Pricing Schedule Term
*Early termination charges shall not exceed the total amount of monthly recurring charges for the remainder of the Minimum Payment Period; refer to <u>Network on Demand Guide</u> for details.		

**4. ADDS**

AT&T Switched Ethernet Service Customer Port Connections may be purchased during the Pricing Schedule Term at the rates, terms and conditions herein.

# \* ETHERNET URBAN RATES

Contract Id: 4870831

WK# - Interstate-InterLATA - TBD	For AT&T Administrative Use Only Pricing Schedule No. _____ Original Effective Date: _____
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## AT&T Switched Ethernet Service<sup>SM</sup> (with Network On Demand) Pricing Schedule Provided Pursuant to Custom Terms 5. RATES and CHARGES

### 5.1 AT&T SWITCHED ETHERNET SERVICE

#### 5.1.1 Monthly Recurring Charges (MRC)

All Monthly Recurring Charge (MRC) rates are per port. The total MRC for a port is the sum of the Port Connection MRC, the Bandwidth MRC, and any associated Feature MRC(s).

#### Port Connection MRC

\* Cost of Circuit

Customer Port Connection Speed	MRC
100 Mbps	\$214.5
1 Gbps	\$214.5

#### Bandwidth MRC

If Customer changes the CIR and/or CoS configuration during the billing cycle, the Bandwidth MRC will be prorated based on the time interval for each configuration.

Bandwidth MRC (100 Mbps and 1 Gbps Basic Port Connections)					
Committed Information Rate (CIR)	Class of Service (CoS)				
	Non Critical High	Business Critical Medium	Business Critical High	Interactive	Real Time
2 Mbps	\$91.09	\$94.23	\$113.08	\$133.49	\$144.49
4 Mbps	\$107.34	\$110.50	\$129.44	\$146.80	\$157.85
5 Mbps	\$136.61	\$142.97	\$158.85	\$174.74	\$187.44
8 Mbps	\$180.88	\$197.50	\$202.84	\$216.47	\$231.81
10 Mbps	\$210.80	\$221.00	\$255.00	\$289.00	\$309.40
20 Mbps	\$276.32	\$289.17	\$321.30	\$353.43	\$379.13
50 Mbps	\$323.40	\$338.25	\$371.25	\$404.25	\$435.60
100 Mbps	\$380.53	\$400.56	\$433.94	\$467.32	\$500.70
150 Mbps	\$530.94	\$557.29	\$582.82	\$607.95	\$652.53
250 Mbps	\$604.95	\$635.20	\$715.86	\$796.52	\$855.00
400 Mbps	\$665.91	\$699.50	\$778.54	\$857.58	\$920.82
500 Mbps	\$707.17	\$742.33	\$820.47	\$898.61	\$965.03
600 Mbps	\$809.63	\$849.73	\$939.47	\$1002.49	\$1073.14
1000 Mbps	\$918.26	\$965.11	\$1040.07	\$1115.03	\$1195.61

5M 214.50 10M 214.50 20M 214.50 50M 214.50 100M 214.50  
 158.85 255.00 321.30 371.25 433.94  
 Feature MRC \$ 313.35 \$ 464.50 \$ 535.00 \$ 589.75 \$ 648.44

Feature	MRC
Enhanced Multicast	\$70

#### 5.1.2 Non Recurring Charges (NRC)

Standard Non Recurring Charges for installation of new Customer Port Connections, per the applicable Service Publication, will be waived.

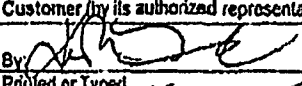


Contract ID: 4870831

AT&T MA Reference No. 138180UA  
AT&T Contract ID No. SDN50MJUPR

**AT&T SWITCHED ETHERNET SERVICE™ (with NETWORK ON DEMAND)**  
Pricing Schedule Provided Pursuant to Custom Terms

By signing this Pricing Schedule, Customer accepts all rates, terms and conditions herein, as presented to Customer by AT&T.

Customer (by its authorized representative)	
By:	
Printed or Typed Name:	KEVIN FROESCH
Title:	CFO
Date:	8/25/2016

For AT&T internal use only:

Contract Ordering and Billing Number (CNUM):

## **EXHIBIT 2**

# Health Care Providers Universal Service Funding Request and Certification Form

The deadline to submit this form is the June 30th end of the funding year.

Estimated time per response: 3 hours

**Read instructions thoroughly before completing this form. Failure to comply may cause delayed or denied funding.****Block 1: HCP Information**

1 HCP Name SSM Health Medical Group - Family Medicine - Belle,	2 HCP Number 48034
3 Form 465 Application # 43166284	4 Consortium Name (If any)

**Block 2: Bill Payer Information**

5 Billed Entity Name SSM Health Medical Group - Family Medical - Belle,	6 Billed Entity FCC RN 0019061654
7 Contact Name Ron Mitchell	
8 Address Line 1 100 Highway 28	
9 Address Line 2	
10 City Belle	11 State MO 12 Zip 65013
13 Contact Phone # 573-681-3737	14 Fax # 15 Email ronald_mitchell@ssmhc.com

**Block 3: Funding Year Information**

16 Funding Year - Check only one box		
<input type="checkbox"/> Year 2014 (7/1/2014-6/30/2015)	<input type="checkbox"/> Year 2015 (7/1/2015-6/30/2016)	<input checked="" type="checkbox"/> Year 2016 (7/1/2016-6/30/2017)

**Block 4: Service Information**

17 Type of Service & Circuit Bandwidth (Documentation required) Ethernet 10M	
18 Total Billed Miles 0	19 Maximum Allowable Distance (From Form 465) 185
20 Percentage of HCP's service used for the provision of health care. 100 (If less than 100%, please explain.) If the HCP indicated it is a part-time eligible entity (on Form 465), describe method of allocating prorated support.	

Connection Information	Carrier A	Carrier B	Carrier C	Carrier D
21 Service Provider Name	CenturyLink			
22 Service Provider Identification Number (SPIN)	143019614			
23 Service Provider Contact Person Name	John Kendrick			
24 Service Provider Contact Person's Phone #	314-720-8514			
25 Service Provider Contact Person Email	john.kendrick@centurylink.com			
26 Circuit Start Location	100 Highway 28, Belle, MO 65013			
27 Circuit Termination Location	Central Office, Belle, MO 65013 45			
28 Billing Account Number	313148399			
29 Tariff, Contract or other document reference number	NA			
30 Date Contract Signed or Date HCP Selected Carrier	07-01-2015			
31 Contract Expiration Date (mm/dd/yyyy or NA if MTM)	MTM			
32 Service Installation Date	07-01-2015			
33 Actual Rural Rate per Month (Enclose Documentation)	675.00			
34 If you are a consortium member OR have multiple carriers, please attach a Circuit Diagram to show how the sites interconnect and which carrier(s) provides each circuit segment. Circuit Diagram included: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
35 Are you a mobile rural health care provider? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, see instructions and attach a list of all sites to be served.				



IF YOU ARE REQUESTING SUPPORT FOR MILEAGE-BASED CHARGES, COMPLETE BLOCK 5 ONLY AND SKIP BLOCK 6. (PLEASE SEE INSTRUCTIONS). IF YOU ARE REQUESTING SUPPORT BASED ON URBAN/RURAL RATE COMPARISON, SKIP BLOCK 5 AND COMPLETE ONLY BLOCK 6. YOUR APPLICATION CANNOT BE PROCESSED IF BOTH BLOCKS ARE COMPLETED.

**Block 5: Mileage-based Charge Discount Request**

Complete this block if you are seeking support for mileage (distance-based) charges only. Do not enter any other charges in this block. You may need to ask your service provider representative to provide this information

36 Billed Circuit Miles				
37 Monthly Mileage Charges (Exclude Channel Termination chgs, etc.)				
38 Cost per Mile per Month				

If Line 33 equals Line 37, please ensure that ONLY mileage-related charges are included in Line 37. (See instructions.)

**Block 6: Comprehensive Rate Comparison Request**

Complete Block 6 if you have not completed Block 5 and are requesting support for all elements of your telecommunications service necessary for the provision of health care. The information in this block will establish the difference between the urban and rural rates for your requested service. Please contact RHCD at (800 453-1546 if you need assistance.

39 One-time Urban Rate Charge (in selected large city)				
40 One-time Rural Rate Charge (in city where HCP is located)				
41 Monthly Urban Rate (in selected large city). From RHCD website: <input type="checkbox"/> or Other rate documentation attached: <input checked="" type="checkbox"/>	464.50			

If your circuit includes charges for mileage over the Maximum Allowable Dist., (Line 19), please complete Lines 42 to 44. Otherwise, skip to Block 7.

42 Billed Circuit Miles				
43 Monthly Mileage Based Charges				
44 Cost per Mile per Month				

**Block 7: Bid Documentation**

45 Did you receive any bids in response to the Form 465 Request for Services posted on the RHCD website? ☐ Yes ☒ No  
If you checked yes, copies of the bids MUST be submitted to RHCD.


**Block 8: Certification**

46 ☒ I certify that the above named entity has considered all bids received and selected the most cost-effective method of providing the requested service or services. The "most cost-effective service" is defined in the Universal Service Order as the service available at the lowest cost after consideration of the features, quality of transmission, reliability, and other factors that the health care provider deems necessary for the service to adequately transmit the health care services required by the health care provider.

47 ☒ Pursuant to 47 C.F.R. Secs. 54.601 and 54.603, I certify that the HCP or consortium that I am representing satisfies all of the requirements herein and will abide by all of the relevant requirements, including all applicable FCC rules, with respect to universal service benefits provided under 47 U.S.C. Sec. 254. I understand that any letter from RHCD that erroneously states that funds will be made available for the benefit of the applicant may be subject to rescission.

48 ☒ I hereby certify that the billed entity will maintain complete billing records for the service for five years.

49 ☒ I certify that I am authorized to submit this request on behalf of the above-named Billed Entity and HCP, and that I have examined this form and attachments and that to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

50 Signature 	51 Date 07/28/2017
52 Printed name of authorized person Geoff W Boggs	53 Title or position of authorized person CEO
54 Employer of authorized person USF Healthcare Consulting Inc	55 Employer's FCC RN 0018694075